IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

CRP.No. 922 of 2005()

AA.33/2004 of APPELLATE AUTHORITY(LR), KANNUR

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REVN. PETITIONER: APPELLANT

POOKKOTH KOTTARAM DEVASWOM COMMITTEE,
REPRESENTED BY ITS PRESIDENT,
M.MANOHARAN, 50 YEARS, S/O.RAMAN,
POOKKOTH KOTTARAM TEMPLE,
THALIPARAMBA, THALIPARAMBA TALUK.

BY ADV. SRI.PROMY KAPRAKKATT
SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH
SMT.P.K.BEENA

RESPONDENTS: RESPONDENTS

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1. THE STATE OF KERALA, REPRESENTED BY THE GOVERNMENNT PLEADER OF THE KERALA HIGH COURT, ERNAKULAM.

2. PATTANI DEVI, D/O.M.CHEEYEYI,
AGED 61 YEARS, NEAR KUTTUKKAN COMPLEX,
POOKKOTH STREET, THALIPARAMBA,
THALIPARAMBA TALUK.

3. PATTANI ROHINI,
D/O.M.CHEEYEYI, AGED 58 YEARS,
NEAR KUTTUKKAN COMPLEX, POOKKOTH STREET,
THALIPARAMBA, THALIPARAMBA TALUK.

4. PATTANI LAKSHMI, D/O.M.CHEEYEYI,
AGED 54 YEARS, NEAR KUTTUKKAN COMPLEX,
POOKKOTH STREET, THALIPARAMBA,
THALIPARAMBA TALUK.

BY GOVERNMENT PLEADER SMT.T.B.REMANI FOR R1
ADV.SRI.M.A.MANHU FOR R2

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.NO.2652/05 IN CRP.922/05

DISMISSED

30.11.2007 SD/= (HARUN-UL-RASHID, JUDGE)

HARUN-UL-RASHID, J.

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C.R.P.NO.922 OF 2005

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DATED THIS THE 30TH DAY OF NOVEMBER, 2007

O R D E R

Revision petitioner is the appellant in A.A.No.33/04 on the file of the Appellate Authority(LR), Kannur. The appeal and the petition for condonation of delay filed filed by the revision petitioner before the Appellate Authority stands dismissed. Hence this revision.

2. The property in dispute belong to the Pookkoth Kottaram Devaswam in jenmom. According to the petitioner, one Cheyeyi claiming lease hold rights filed O.A.No.8591/75 before the Land Tribunal, Taliparamba for assignment of right, title and interest. The Original Application was allowed by the Land Tribunal vide order dated 5.2.1976 in O.A.No.8591/75. Pursuant to the order, purchase certificate was issued on 4.10.1976.

3. The revision petitioner submitted that the lessee obtained pattayam in R.S.No.8/18 in the year 1976. Subsequently, without the knowledge of the revision petitioner, respondents sought for change of survey numbers and

R.S.Nos.8/18A and 8/19A are inserted in the place of R.S.No.8/18. According to the revision petitioner, this alteration in the purchase certificate was made illegally by the Land Tribunal without issuing notice to the revision petitioner and he came to know about the alteration in the survey number only on 3.1.2002 when a devotee by name Pattani Unnikrishnan filed I.A.No.24/2000 to set aside the order of the Land Tribunal. I.A.No.24/2000 filed by the devotee was dismissed by the Land Tribunal on 7.4.2004. After finding that the said application is dismissed, the petitioner was compelled to file an appeal before the Appellate Authority, against the original order granting assignment in the name of the lessee.

4. The revision petitioner submitted that the conduct on the part of the respondents and the officials would show that some foul play and fraud has been committed in inserting two additional survey numbers in the purchase certificate. Therefore, the matter requires reconsideration by the Appellate Authority. All the documents produced in favour of the lessee is the property in survey No.8/18 and the subsequent insertion of 8/18A and 8/19A is intended to annex portions of the property belonging to the revision petitioner. According to the revision

petitioner, the delay was caused only because the petitioner had no knowledge about the rectification made by the respondents with the connivance of the authorities.

5. Counsel for the respondents submitted that the original order in O.A.No.8591/75 was passed by the Land Tribunal in the proceedings in which the Devaswam was also represented and that the order was passed after hearing the President of the Devaswam, Mr.Krishnan and therefore the allegation that the order has been passed without notice to the revision petitioner is not correct.

6. There is an inordinate delay of 26 years in filing the appeal. The delay was happened due to the fact that the rectification was made behind the back of the revision petitioner. The revision petitioner submitted that the insertion was made without passing any orders and therefore he is not in a position to challenge the order correcting the survey numbers in the purchase certificate. After hearing both sides, I am of the view that an opportunity shall be given to the revision petitioner to contest the matter on merits and a decision on merits in the facts and circumstances is warranted. Therefore, I allow the Civil Revision Petition and condone the delay in filing the appeal

before the Appellate Authority on condition that the revision petitioner shall pay Rs.5,000/= (Rupees Five Thousand only) as cost to respondents 2 to 4. The Appellate Authority shall decide the appeal on merits within a period of six months from the date of receipt of a copy of this order. The cost shall be paid within a period of one month from today.

The Civil Revision Petition is disposed of as above.

HARUN-UL-RASHID, JUDGE.

dsn